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TETUAN CHEE HOE & ASSOCIATES v. PHAN YIT LENG & ORS

HIGH COURT MALAYA, KUALA LUMPUR
ROZ MAWAR ROZAIN JC
[CIVIL SUIT NO: WA-22NCvC-178-03-2022]
B 22 NOVEMBER 2022

Abstract – *An Anton Piller order, providing a right to search premises without prior warning, is intended to preserve what is essential and relevant to a plaintiff's case. To be successful in obtaining the order, being one that is harsh and draconian, a heavy burden and high threshold is to be satisfied. The court must be satisfied that there is an extremely strong prima facie case, the damage, potential or actual, must be very serious for the plaintiff and there is evidence that the defendant has, in his possession, incriminating documents or things that have a real possibility of being destroyed prior to the disposal of the main trial.*

CIVIL PROCEDURE: *Injunction – Anton Piller order – Application to set aside – Employees of firm alleged to have downloaded firm's database without consent and utilised it in another firm – Court allowed Anton Piller order ex parte – Whether information confidential in nature – Whether usage detrimental to firm – Whether strong prima facie case established – Whether damages adequate remedy – Whether real risk or possibility of destruction of evidence shown – Whether there was urgency to necessitate order – Whether order should not have been granted*

The plaintiff was a legal firm and the former employer of the first and second defendants. During their employment with the plaintiff, the first and second defendants were given full access to the plaintiff's local server and database, containing, amongst others, its confidential information, trade secrets, intelligence, expertise and proprietary information with respect to its clients and clients. The first and second defendants, who left the plaintiff to set up a partnership, the third defendant, knew that the database and information contained therein were for the sole and limited purpose of their employment with the plaintiff. Around February 2022, the plaintiff became aware that the first and second defendants had downloaded/copied the plaintiff's server that contained the database without the plaintiff's consent and had been utilising the information therein in the daily operations of the third defendant. The plaintiff's cease and desist notice to the first and second defendants were ignored where none of the demands by the plaintiff, in particular, for the database and information therein to be deleted by first and second defendants, were met. The plaintiff thus filed a suit ('encl. 1'), followed by an *ex parte* application ('encl. 3') for an *Anton Piller* order which was granted by the court. Upon its execution, a report was prepared by the supervising solicitor confirming recovery, from the third defendant's premise, of an external hard disk drive containing the plaintiff's database and the

information therein. The hard disk drive was seized. Subsequently, the *Anton Piller* injunction was heard *inter partes* ('encl. 4'), including the defendants' application to set it aside ('encl. 37') on the basis that the *Anton Piller* order should never have been made.

Held (ordering items seized to be returned to defendants):

(1) The information was related to all the plaintiff's clients, former and current, all works carried out for them and the cases carried much confidentiality in nature. This also stretched to the information of the plaintiff's employees. The first and second defendants knew, as advocates and solicitors and who had practised with the plaintiff, that the information contained in the plaintiff's database and server were of confidential nature. The issuance of the cease-and-desist letters by the plaintiff clearly showed unauthorisation on the part of the plaintiff and that the possession and usage of the information by the defendants was detrimental to the plaintiff. There was thus an extremely strong *prima facie* case. (para 18)

(2) Trade secrets, such as the information in question, were of immeasurable value to the plaintiff. Breaches of confidence in confidential information are also where damages are not an adequate remedy because of the difficulty involved. (para 19)

(3) The *Anton Piller* order and the execution thereof are serious in nature. The court must be satisfied as to the urgency of granting it *ex parte* where the element on the danger of the real risk or possibility of destruction of evidence must be fulfilled. Although the information contained in the plaintiff's database downloaded from the plaintiff's server was found on the third defendant's premises, there was no evidence that there was a real possibility of the defendants destroying it. If the allegations by the plaintiff were true and that the defendants had placed great reliance on the information in question, destruction of it would not be possible. There was thus, insufficient evidence to justify the sustaining of the *Anton Piller* order as there was no urgency to necessitate such order. (paras 24, 26, 27 & 29)

(4) The *Anton Piller* Order, that had already been executed and exhausted, should not have been granted. In order to ensure substantial justice of this case, the items seized were ordered to be returned to the defendants. The defendants were not to open or delete the folder that contained the information in the plaintiff's database, downloaded from the plaintiff's server, in particular, under the folder SUHAKAM. The defendants were also ordered to refrain, abstain and desist from utilising the said information in the plaintiffs' database downloaded from the server until the disposal of this suit but for the purposes of seeking legal advice and counsel for this suit only. It was further ordered that the imaging and copies made by the supervising solicitor be kept for discovery for the

purposes of this pending suit. All affidavits filed were to be sealed as confidential and protected information, not to be opened nor the contents thereof be accessed, displayed, disclosed or revealed except with this court's permission or further order. (paras 30 & 31)

Case(s) referred to:

American Cynamid Co v. Ethicon Ltd [1975] AC 396 ***(refd)***
Anton Piller KG v. Manufacturing Processes Ltd & Ors [1976] 1 All ER 779 ***(refd)***
Arthur Anderson & Co v. lnterfood Sdn Bhd [2005] 2 CLJ 889 CA ***(refd)***
Brink's-MAT Ltd v. Elcombe & Ors [1988] 2 All ER 188 ***(refd)***
Centek Limited v. Farrah Dheeba Shaiful Ridzuan & Ors [2021] 1 LNS 14 HC ***(refd)***
Coco v. AN Clark (Engineers) Ltd [1969] RPC 41 ***(refd)***
Computerland Corp v. Yew Seng Computers Pte Ltd [1991] 3 CLJ 2644; [1991] 4 CLJ (Rep) 485 ***(refd)***
Dynacast (Melaka) Sdn Bhd & Ors v. Vision Cast Sdn Bhd & Anor [2016] 6 CLJ 176 FC ***(refd)***
GMX Associates Pte Ltd v. Lee Yew Pooi [1998] 5 CLJ 245 HC ***(refd)***
Keet Gerald Francis Noel John v. Mohd Noor Abdullah & Ors [1995] 1 CLJ 293 CA ***(refd)***
N-Visio Sdn Bhd v. Horizon Multimedia Sdn Bhd & Ors [2010] 3 CLJ 585 HC ***(refd)***
Sigma Gloves Industries Sdn Bhd & Ors v. Ong Chin Kok & Anor [2019] 1 LNS 1370 HC ***(dist)***
Svenson Hair Center Sdn Bhd v. Irene Chin Zee Ling [2008] 8 CLJ 386 HC ***(refd)***
TT Dotcom Sdn Bhd v. Low Wey Heng & Ors [2022] 1 LNS 1963 HC ***(refd)***
Westform Far East Sdn Bhd v. Connaught Heights Sdn Bhd [2010] 2 CLJ 541 CA ***(refd)***

For the plaintiff - Angeline Ang Mei Fong & Khoo Jia Hung; M/s Chee Hoe & Assoc
For the defendant - Brenda Lee Pheng & Bryan Boo Wei Siang; M/s Bryan & Co

Reported by S Barathi

JUDGMENT

Roz Mawar Rozain JC:

The Parties

[1] The plaintiff is a legal firm and the former employer of the first and second defendants. The first defendant worked with the plaintiff for five years and nine months (April 2014 to February 2020) whilst the second defendant worked with the plaintiff for four months (July 2019 to August 2019 and November 2019 to January 2020). They then left the plaintiff and set up a partnership that is the third defendant.

[2] During their employment with the plaintiff, they were given full access to the plaintiff's local server and database. It was established in 2009 and the plaintiff claimed it contained amongst others, its confidential information, trade secrets, intelligence, expertise and proprietary information with respect to its clients and clients. By virtue of their contracts of employment with the plaintiff, the first and second defendants knew that the database and information contained therein were only for the sole and limited purpose of their employment with the plaintiff.

[3] Around February 2022, the plaintiff became aware that the first and second defendants had downloaded/copied the plaintiff's server that contained the database without the plaintiff's consent and had been utilising the information therein in the daily operations of the third defendant. The plaintiff contended that the first and second defendants had breached their duty of confidence and fidelity. The plaintiff further contended that this includes dissemination of the information therein to third parties including the third defendant's employees, interns and pupils. The plaintiff alleged that the first and second defendants breached the confidentiality clause in their contracts of employment with the plaintiff.

[4] The plaintiff contended too, that the first and second defendants were unjustly enriched by their wrongful retainment and usage of the plaintiff's database and information contained therein since the establishment of the third defendant.

[5] The plaintiff's cease and desist notice to the first and second defendants remained ignored where none of the demands by the plaintiff in particular for the database and information therein to be deleted by the first and second defendants were met. Thus, the plaintiff then filed this suit (encl. 1) the following month in March 2022. Two days later, an *ex parte* application (encl. 3) for the *Anton Piller* order followed.

The *Anton Piller* Order

[6] On 6 April 2022 the court had granted the *ex parte* application of the plaintiff and ordered and directed that (encl. 11):

(i) the defendants (including agents, representatives, employees and officers) allow in the premises of the third defendant not more than three advocates and solicitors from the supervising solicitors and the plaintiff respectively to enter to inspect, examine and seize immediately any computer, laptop, notebook, tablet and any digital storage devices or other optics including any cloud storage for the purpose of forfeiture of the plaintiff's server and database and imaging against the same to preserve data integrity;

(ii) the defendants grant the supervising solicitors any login details and/or password as required;

(iii) the defendants allow their presence to remain in the premises until inspection was successful and if necessary to allow re-entry;

(iv) the defendants are injuncted and restrained from disclosing or using the server and database and all the information contained therein for any purpose until the disposal of this suit;

(v) the defendants submit to the supervising solicitors all documents and materials, including but not limiting to those relating to the information contained in the database, as set out in Schedule A to the order, where the use and disclosure would contravene the injunction;

(vi) the defendants deliver within 24 hours any other device not in the immediate possession upon the service of the *ex parte* order;

(vii) the items shall be kept in the custody of the supervising solicitor until further order of this court;

7A. The method of execution as per Schedule B to the *ex parte* order;

(viii) the supervising solicitor file a report to this court;

(ix) the defendants within 48 hours of the service of the *ex parte* order, serve upon the plaintiff affidavits confirming all devices submitted and the names of those the defendants had used, supplied or provided the information in the server and database;

(x) the plaintiffs could use the materials obtained to enforce its rights for the purpose of these proceedings only;

(xi) the defendants are prevented from informing anyone the existence of – the suit and the *ex parte* order other than for the purpose of obtaining legal advice from solicitors;

(xii) protection order where:

(a) affidavits were to be filed manually;

(b) the affidavits in respect of this application were to be separated from other documents filed and sealed;

(c) the affidavits filed in respect of this application shall be kept confidential and used only for the purpose of this proceedings, shall not be accessible for public inspection;

(xii) non-compliance would subject the defendants to committal/ imprisonment/fine;

(xiii) the *ex parte* order had also directed an *inter partes* hearing to be conducted within 14 days thereafter.

[7] The *Anton Piller* order was executed on 8 April 2022. The High Court had also ordered for an *inter partes* hearing within 14 days thereafter but this was only heard in November 2022.

[8] The execution report dated 10 May 2022 was prepared by the supervising solicitor (encl. 18). The report confirmed that at the third defendant's premise (located in the common area near the first and second defendants' rooms) a black external hard disk drive with Samsung Serial Number E2E2JJ0B700350 and Part Number HX-M500TAB/GO was found which contained the plaintiff's database with the information therein. The Samsung Hard Disk Drive was seized. The imaging sessions of the Samsung Hard Disk Drive were conducted on 29 April 2022 and 5 May 2022.

[9] Aside from the Samsung Hard Disk Drive, there were no other devices or gadgets that contained the plaintiff's server and database with the information therein.

The *Inter Partes* Arguments On The *Anton Piller* Order

[10] This court heard the arguments by both parties on the *Anton Piller* order (encl. 4) including the defendants' application to set it aside (encl. 37). The plaintiff complained of the tardiness in the filing of the application to set it aside, being three months after the High Court had granted the *Anton Piller* order and the execution thereof. The defendants cited a change in their solicitors and also the fact that the second defendant's maternity leave had taken priority and caused some delay in the filing. The defendant submitted that the application was more to seek a retrospective discharge of the *Anton Piller* order for the purposes of enforcing the plaintiff's undertaking as to damages.

[11] This court acknowledged that the application to set aside or discharge or vary an *Anton Piller* Order granted may be made within a reasonable time, which is a question of fact in each case. Reference is made to *GMX Associates Pte Ltd v. Lee Yew Pooi* [1998] 5 CLJ 245 where in considering when an application to discharge *Anton Piller* orders ought to be reasonably done. At p. 248 Steve Shim J (as he then was) in rejecting the preliminary objection there as to the late application to set aside, held:

> In my view, this two-week limitation does not apply to an *Anton Piller* order, although of course effluxion of time may weigh against discharge of such an order. This is quite evident in the case of *Columbia Pictures Industry Inc v. Robinson* [1987] Ch 38 where there was an application to discharge an *Anton Piller* order which had apparently been executed some years previously. In that case, the court refused the application on the ground of material non-disclosure by the plaintiff. In my view, any such application for discharge or set aside an *Anton Piller* order must necessarily be made within a reasonable time after the grant of the order. What is a reasonable time is a question offact to be decided by the court upon the particular facts and circumstances of the case.

[12] This court took into account the factors cited by the defendants and bore in mind the facts that this is an *Anton Piller* order granted *ex parte*, and that the defendants are seeking to set it aside on the basis that the *Anton Piller* order and the other orders granted should have never been made, and that they seek to enforce the plaintiff's undertaking as to damages. The plaintiff's preliminary objection is hereby dismissed. Reference is made to *N-Visio Sdn Bhd v. Horizon Multimedia Sdn Bhd & Ors* [2010] 3 CLJ 585 at pp. 594 to 596. It was firstly decided there that once the *Anton Piller* order was executed, there was no necessity for an *inter partes* hearing though an application to discharge if so was made should be heard. This court now proceeds to deliberate the defendants' application.

[13] In the words of Zabariah Mohd Yusof J (as she then was) at p. 592 of *N-Visio Sdn Bhd* (*supra*):

Essentially, *Anton Piller* order is a court order which provides for the right to search premises without prior warning. This is used in order to prevent the destruction of incriminating evidence, the first of such order was issued in the case of *Anton Piller KG v. Manufacturing Processes Lts & Ors* [1976] 1 All ER 779. The order authorises the plaintiff to enter upon the premises of the defendant to search for documents or articles which is needed for the plaintiff's case, to take/make copies or remove them from the premises to be kept in safe custody by the plaintiff's solicitors. Effectively, it is to ensure that the evidential document or articles which are crucial to the plaintiff's case would not be destroyed or concealed pending disposal of the plaintiff's case. The primary purpose of the *Anton Piller* Order is to preserve which is essential and relevant to the plaintiff's case. (Refer to the case of *ESPL (M) Sdn Bhd v. Harbert International Est Sdn Bhd* [2003] 2 AMR 724; *Columbia Picture Industries Inc v. Robinson* [1986] 3 All ER 338 at pp. 367 and 371; and *Television Broadcasts Ltd & Ors v. Mandarin Video Holdings Sdn Bhd* [1983] 2 MLJ 346);

An *Anton Piller* order is a very harsh and draconian order obtained against the defendant. It is a heavy burden and the threshold for the applicant to satisfy the court in applying for an *Anton Piller* order is very high. Because such an order is essentially unfair to the accused party, *Anton Piller* orders are only issued exceptionally, when:

There is an extremely strong prima facie case against the defendant, The damage, potential or actual, must be very serious for the applicant, and There must be clear evidence that the defendants have in their possession incriminating documents or things and that there is a real possibility that they may destroy such material before the disposal of the main trial.

[14] The defendants had complained the lack of experience of the supervising solicitor to ensure compliance to the safeguards in Schedule B to the *Anton Piller* Order. Examining the execution report (encl. 18), this court finds that the supervising solicitor had executed his role professionally and reasonably and there were no breaches of any safeguards thereof.

Extremely Strong *Prima Facie* Case

[15] In contending that there was no strong *prima facie* case, the defendants submitted that the plaintiff's allegation that the information contained in the database and server of the plaintiff was confidential, was too vague and not particularised. That lack of particularisation according to the defendants failed to fulfil the requirement of an extremely strong *prima facie* case.

[16] This court distinguishes the facts in the case of *Sigma Gloves Industries Sdn Bhd & Ors v. Ong Chin Kok & Anor* [2019] 1 LNS 1370; [20181 8 MLJ 481 as in that case the contents of the confidential information were not specified so the High Court could not find any evidence as to the contents of the confidential information. In this case, Schedule A particularised (a) to (n) that included not just the plaintiff's clients' cases and confidential information but also its employees' confidential information. It had also listed the plaintiff's legal templates, precedents, quotations, agreements and invoices, amongst others.

[17] That decision was guided by the Federal Court's case of *Dynacast (Melaka) Sdn Bhd & Ors v. Vision Cast Sdn Bhd & Anor* [2016] 6 CLJ 176; [2016] 3 MLJ 417 affirming the legal principle in the English case of *Coco v. AN Clark (Engineers) Ltd* [1969] RPC 41 on the elements for tort of breach of confidence:

(i) the information in question must have the necessary quality of confidence;

(ii) the information must have been imparted in circumstances importing an obligation of confidence; and

(iii) there must be an unauthorised use of the confidential information to the detriment of the party communicating it.

[18] The information in question is related to all the plaintiff's clients, former and current. All works carried out for them and the cases do carry much confidentiality in nature. This also stretches to the information of the plaintiff's employees. This court further finds that the first and second defendants knew as advocates and solicitors and who had practised with the plaintiff, that the information contained in the plaintiff's database and server were in fact of confidential nature. The issuance of cease and desist letters by the plaintiff clearly at this stage show unauthorisation on the part of the plaintiff and that the possession and usage of the information by the defendants was detrimental to the plaintiff. This court views that the first element of an extremely strong *prima facie* case is fulfilled.

[19] This court too observes that trade secrets such as the information in question are of immeasurable value to the plaintiff. Breaches of confidence in confidential information are also where damages are not an adequate remedy because of the difficulty involved (*Svenson Hair Center Sdn Bhd v. Irene Chin Zee Lin*g [2008] 8 CLJ 386; [2008] 7 MLJ 903 refers).

Was There Any Necessity For An Ex Parte Hearing For The Anton Piller Order?

[20] In other words, the defendants contended that there was no real urgency and that the plaintiff had failed to demonstrate there was a real risk of destruction of evidence. The defendant relied on *Westform Far East Sdn Bhd v. Connaught Heights Sdn Bhd* [2010] 2 CLJ 541. The defendants submitted that as the plaintiff claimed that they were utilising the information contained in the database downloaded from the plaintiff's server, they could not then be destroying it.

[21] The plaintiff submitted that based on the conduct of the defendants, before and after the service of the *Anton Piller* order, there was still a possibility that the defendants would destroy the evidence or cause serious damage to it. The plaintiff relied on the following facts in submitting dishonesty on the part of the defendants:

A (i) the defendants had ignored its cease and desist letters;

(ii) the defendants mounted allegations against the supervising solicitors a few months after the execution of the *Anton Piller* order;

(iii) the information in the plaintiff's database and server was indeed found
B in the possession of the third defendant, under a folder entitled SUHAKAM at that;

(iv) communications (*via* What's App application) of the second defendant showed unauthorised utilisation of the information in the plaintiff's database downloaded from the server.

C **[22]** On all these facts, the plaintiff submitted that there was a real risk of the defendants destroying the information in the database downloaded server prior to full disposal of this suit. The plaintiff cited *Centek Limited v. Farrah Dheeba Shaiful Ridzuan & Ors* [2021] 1 LNS 14; [2021] 9 MLJ 548 where the nefarious activity which would render one an untrustworthy person was
D considered to conclude that there was a probability and/or tendency that he would then cover up his crime and destroy the evidence.

[23] This court, in turn, considers the decision in *Computerland Corp v. Yew Seng Computers Pte Ltd* [1991] 3 CLJ 2644; [1991] 4 CLJ (Rep) 485; [1991] 3 MLJ 201 where the order to discharge the *Anton Piller* orders granted prior
E was affirmed:

> There was no evidence that there was a 'grave danger' or 'real possibility' that the respondent would or might destroy any documents and other evidence in their possession. The evidence also did not show any dishonest conduct on the part of the respondent's managing director or
F other directors in charge of the matter. The parties were engaged in ongoing disputes for some years, and there was no suggestion that in relation to these disputes the respondent had at any stage destroyed or threatened to destroy any documents or records.
>
> The alleged breaches of the agreement by the respondent in particular the
G underpayment of royalties, under-reporting of sales, failure to furnish accounts and refusal to allow access to the accounts or to allow an adult, are not synonymous with dishonesty and are no indication of any intention on the part of the respondents to destroy any evidence and thus frustrate the whole process of justice.
>
> The appellants in this action were seeking, *inter alia*, an account of all sales
H made by the respondents and so account of the royalties uies to them. It was the respondents who would need to show that the appellants were not entitled to more royalties than the respondents had reported, and if the respondents could not produce the documents required the court could and would rightly make every presumption in favour of the
I applicants.
>
> The draconian nature of the *Anton Piller* order cannot be over-emphasised and it should be granted only in exceptional circumstances.

> It is imperative that on every application of an *Anton Piller* order the party seeking it must satisfy the stringent requirements laid down in the *Anton Piller* case and the court must scrutinise with care the evidence produced, and must be very circumspect in granting such an order. The Court has to balance 'the plaintiff's right to recover his property or to preserve evidence' against 'violation of the privacy of a defendant who has had no opportunity to put his side of the case'. Any such order should be granted if the court is satisfied that there is a real risk of justice being frustrated or thwarted.

[24] Though the information contained in the plaintiff's database that was downloaded from the plaintiff's server was found on the third defendant's premises, there is no evidence that there was now a real possibility of the defendants destroying it. At p. 205 in *Computerland* (*supra*), the phrase 'a real possibility' was applied as:

> The phrase a real possibility is to be contrasted with the extravagant fears which seem to afflict all plaintiffs who have complaints of breach of confidence, breach of copyright or passing off. Where the production and delivery up of documents is in question, the courts have always proceeded, justifiably, on the basis that the overwhelming majority of people in this country will comply with the court's order, and that the defendants will therefore comply with orders to, for example, produce and deliver up documents without it being necessary to empower the plaintiff's solicitors to search the defendant's premises.

[25] This court has dutifully perused through the evidence and cause papers before it at this juncture. Questions of untrustworthiness aside, there is no evidence that of any real risk or possibility that the defendants would destroy the information in question.

[26] On the other hand, if the allegations by the plaintiff were true and that the defendants had placed great reliance on the information in question, destruction of it would not be a possibility at all. The plaintiff in fact had wanted the defendants to remove and delete the information in question and it was because of that failure, in addition to claims of utilising it, that the plaintiff had initiated this suit. So, this court opines that there is no real risk of the defendants destroying it.

[27] The *Anton Piller* order and the execution thereof are serious in nature. They must be warranted whereby all elements must be considered carefully. This court must be satisfied as to the urgency of granting it *ex parte* where that element on the danger of the real risk or possibility of destruction of evidence must be fulfilled.

[28] On the issue of preserving it for the purposes of the trial – for the plaintiff to prove to this court that the defendants had in their possession the said information in question which belongs to the plaintiff, there are other legal ways less draconian, aside from the *Anton Piller* order. In this case, it went overboard as there was no real danger or possibility of destruction to warrant an intrusion to retrieve the same.

[29] There are other issues raised by the defendants in their application to set aside the *Anton Piller* order that was granted *ex parte*. However, this court will not address them in this reasoned decision as there is no necessity to sustain the *Anton Piller* order (encl. 11). Though it should be noted here that this court finds that there was no material non-disclosure on the part of the plaintiff – the decision the Court of Appeal in *Brink's-MAT Ltd v. Elcombe & Ors* [1988] 2 All ER 188 at pp. 192 to 193 refers. Nevertheless, the evidence in this case is insufficient to justify the sustaining of the *Anton Piller* order as there was no urgency to necessitate such order.

[30] The *Anton Piller* order had been already executed and exhausted. However, this court is of the opinion that it should not have been granted. To ensure substantial justice of this case, this court orders that the items seized be returned to the defendants. The defendants are not to open or delete that folder that contained the information in the plaintiff's database downloaded from the plaintiff's server, in particular under the folder SUHAKAM. This court also hereby orders that the defendants are to refrain, abstain and desist from utilising the said information in the plaintiff's database downloaded from the server until the disposal of this suit but for the purposes of seeking legal advice and counsel for this suit only.

[31] This court further orders that the imaging and copies made by the supervising solicitor be kept for discovery for the purposes of this pending suit. All affidavits filed are still to be sealed as confidential and protected information, not to be opened nor the contents thereof be accessed, displayed, disclosed, or revealed except with this court's permission or further order. This is to preserve the confidentiality of the clients and employees in the information in question until this suit is disposed of.

[32] The other cases referred to in the course of coming to this decision are:

(i) *Anton Piller KG v. Manufacturing Processes Ltd & Ors* [1976] 1 All ER 779;

(ii) *Keet Gerald Francis Noel John v. Mohd Noor Abdullah & Or*s [1995] 1 CLJ 293; [1995] 1 MLJ 193;

(iii) *Westform Far East Sdn Bhd v. Connaught Heights Sdn Bhd* [2010] 2 CLJ 541;

(iv) *TT Dotcom Sdn Bhd v. Low Wey Heng & Ors* [2022] 1 LNS 1963; [2020] MLJU 1512;

(v) *Arthur Anderson & Co v. lnterfood Sdn Bh*d [2005] 2 CLJ 889; [2005] 6 MLJ 239; and

(vi) *American Cynamid Co v. Ethicon Ltd* [1975] AC 396.

[33] Costs to be in the cause.